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## BEFORE THE ARIZONA CORPORATION COMMISSION

MARC SPITZER  
CHAIRMAN  
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COMMISSIONER  
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Arizona Corporation Commission  
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IN THE MATTER OF COMPETITION IN THE  
PROVISION OF ELECTRIC SERVICES  
THROUGHOUT THE STATE OF ARIZONA

DOCKET NO. RE-00000C-94-0165

IN THE MATTER OF THE STRANDED COST  
FILING AND REQUEST FOR A WAIVER OF  
CERTAIN PORTIONS OF THE RULES FILED BY  
MOHAVE ELECTRIC COOPERATIVE, INC.

DOCKET NO. E-01750A-98-0467

IN THE MATTER OF THE FILING BY MOHAVE  
ELECTRIC COOPERATIVE, INC. OF  
UNBUNDLED AND STANDARD OFFER  
SERVICE TARIFFS PURSUANT TO A.A.C. R14-2-  
1606.

DOCKET NO. E-01750A-97-0701

IN THE MATTER OF THE STRANDED COST  
FILING AND REQUEST FOR A WAIVER OF  
CERTAIN PORTIONS OF THE RULES FILED BY  
TRICO ELECTRIC COOPERATIVE, INC.

DOCKET NO. E-01461A-98-0466

IN THE MATTER OF THE FILING BY TRICO  
ELECTRIC COOPERATIVE, INC. OF  
UNBUNDLED AND STANDARD OFFER  
SERVICE TARIFFS PURSUANT TO A.A.C. R14-2-  
1606.

DOCKET NO. E-01461A-97-0696

IN THE MATTER OF THE STRANDED COST  
FILING AND REQUEST FOR A WAIVER OF  
CERTAIN PORTIONS OF THE RULES FILED BY  
GRAHAM COUNTY ELECTRIC COOPERATIVE,  
INC.

DOCKET NO. E-01749A-98-0468

1 IN THE MATTER OF THE STRANDED COST  
2 FILING AND REQUEST FOR A WAIVER OF  
3 CERTAIN PORTIONS OF THE RULES FILED BY  
4 DUNCAN VALLEY ELECTRIC COOPERATIVE,  
INC.

DOCKET NO. E-01703A-98-0469

5 IN THE MATTER OF THE STRANDED COST  
6 FILING AND REQUEST FOR A WAIVER OF  
7 CERTAIN PORTIONS OF THE RULES FILED BY  
8 SULPHUR SPRINGS VALLEY ELECTRIC  
COOPERATIVE, INC.

DOCKET NO. E-01575A-98-0472

9 IN THE MATTER OF THE FILING BY SULPHUR  
10 SPRINGS VALLEY ELECTRIC COOPERATIVE,  
11 INC. OF UNBUNDLED AND STANDARD OFFER  
12 SERVICE TARIFFS PURSUANT TO A.A.C. R14-2-  
13 1606.

DOCKET NO. E-01575A-97-0706

DEC # 61306

14  
15 **DUNCAN AND GRAHAM'S SUPPLEMENTAL RESPONSE TO THE AECC**  
16 **APPLICATION FOR HEARING SCHEDULING**

17 The Cooperatives submit this supplement to their response to the AECC Application to  
18 Schedule a Hearing on the stranded costs of Duncan and Graham.

19 On January 27, 2004, the Arizona Court of Appeals, Division One issued its Decision in  
20 Phelps Dodge Corporation et. al v. Arizona Electric Power Cooperative, Inc., 1 CA-CV 01-0068  
21 (the "Decision"). The Cooperatives would request that the Administrative Law Judge take  
22 official notice of the Decision, which pertains to the Commission's Electric Competition Rules.  
23 The Decision, among other things, invalidates certain rules on constitutional, statutory or  
24 Administrative Procedure Act grounds, affirms certain others and vacates all Commission  
decisions previously issued which granted Certificates of Convenience and Necessity to ESP's.  
Although Petitions for Review of the Decision may be filed with the Arizona Supreme Court, the  
further uncertainty concerning the Rules and other aspects of electric competition created by the

1 Decision reinforces the arguments made both by the Cooperatives and Staff that the Application  
2 should be denied and the Cooperatives' stranded cost cases should not, at this time, be scheduled  
3 for hearing.

4 The Cooperatives also correct certain factual misstatements contained in AECC's reply to  
5 the Staff's response. First, at page 2 of the January 29, 2004 reply, AECC states that the ECAG  
6 Rules' revision workshop lasted only 5 minutes. In fact, the December 19 workshop lasted more  
7 than two hours. Participants and Staff discussed possible revisions to several different Rules  
8 provisions.

9 Second, at page 3 of the reply, AECC asserts that AEPCO is overcollecting its  
10 competition transition costs and "continues to enjoy a negative CTC." Both statements are  
11 incorrect. Initially, AEPCO has never recovered any money through the CTC since it was  
12 authorized by the Commission in July of 2000, so it obviously can't be overcollecting  
13 competition transition costs. As for the statement that AEPCO has a "negative CTC," that also is  
14 incorrect. In Decision No. 65119, the August 2002 Commission decision which suspended the  
15 annual re-setting of the CTC, the Commission found that the data submitted by AEPCO would  
16 have required a positive CTC of \$0.01125 had the process not been suspended. Decision No.  
17 65119, Finding of Fact 15.

18 In conclusion, the Cooperatives request that the Administrative Law Judge take official  
19 notice of the Court of Appeals decision, deny the AECC application and leave these matters on  
20 inactive status.

1                   RESPECTFULLY SUBMITTED this 9th day of February, 2004.

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11               **Original** and 29 copies filed this  
12               \_\_\_ day of February, 2004, with:

13               Docket Control  
14               Arizona Corporation Commission  
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18               9th day of February, 2004, to:

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